UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 18-sc-3459 (NEB/BRT)

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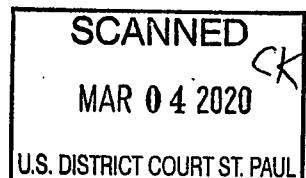MAR 0 4 2020

CLERK, U.S. DISTRICT COURT
ST. PAUL, MINNESOTA

United States of America,	)
State of Alaska,	)
State of Arkansas,	)
State of California,	)
State of Colorado,	)
State of Connecticut,	)
State of Delaware,	)
District of Columbia,	)
State of Florida,	)
State of Georgia,	)
State of Hawaii,	)
State of Illinois,	)
State of Indiana,	)
State of Iowa,	)
State of Louisiana,	)
State of Maryland,	)
Commonwealth of Massachusetts,	)
State of Michigan,	)
State of Minnesota,	)
State of Montana,	)
State of Nevada,	)
State of New Jersey,	)
State of New Mexico,	)
State of New York,	)
State of North Carolina,	)
State of Oklahoma,	)
State of Rhode Island,	)
State of Tennessee,	)
State of Texas,	)
State of Vermont,	)
Commonwealth of Virginia,	)
State of Washington,	)
State of Wisconsin, and	)
City of Chicago,	)
	)
ex rel. Joseph Caliguire,	)
	)
Plaintiffs and Relator,	)
	)

FILED UNDER SEAL

v.	)
	)
Upsher-Smith Laboratories, LLC,	)
	)
Defendant.	)
	)

JOINT NOTICE OF ELECTION TO DECLINE INTERVENTION

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States, joined by the above-captioned states, the Commonwealth of Massachusetts, the Commonwealth of Virginia, and the City of Chicago, hereby notify the Court of their decision not to intervene in this action. The undersigned Department of Justice counsel have consulted with the above-captioned states through Assistant Attorneys General Katie M. Wilson, John Fisher, and James Clark, and with the City of Chicago through Assistant City Attorney Elie Zenner. Those attorneys have advised undersigned Department of Justice counsel that the above-captioned government entities also decline to intervene in this action.

Although the United States declines to intervene, it respectfully refers the Court to 31 U.S.C. § 3730(b)(4)(B), and (b)(1), which allow the relator to maintain the action in the name of the United States; provided, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." 31 U.S.C. § 3730(b)(1). Therefore, the United States respectfully requests that, if either the relator or the Defendant proposes that this action be dismissed, settled, or otherwise discontinued, the Court solicit the written consent of the United States before ruling or granting its approval.

Pursuant to 31 U.S.C. § 3730(c)(3), the United States further requests that all pleadings filed in this action be served upon the United States. The United States reserves its right to order any deposition transcripts, to intervene in this action for good cause at a later date, and to seek the dismissal of the relator's action or claim. The United States also requests that the parties serve it with any notice of appeal. A proposed Order accompanies this notice.

Finally, the United States requests that the relator's Complaint, this Notice, and the accompanying proposed Order be unsealed. The United States, however, requests that all other submissions currently on file in this action remain under seal because those documents described the United States' investigation and were provided to the Court for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended. *See* 31 U.S.C. § 3730(b)(3).

Dated: March 2, 2020   ERICA H. MacDONALD
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